



March 15, 2000

Mr. Clay T. Grover
Feldman & Rogers, L.L. P.
Coastal Banc Plaza
5718 Westheimer, Suite 1200
Houston, Texas 77057

OR2000-1030

Dear Mr. Grover:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133025.

The Longview Independent School District (the "district") received requests from two requestors for information relating to legal services provided to the district. One requestor asks for "any and all invoices for legal advice for the Longview Independent School District received during the period [of] January 1, 1998 to December 13, 1999." The information sought by the other requestor is as follows:

1. How much money the district paid to retain the services of each attorney's [sic] during the 1998-1999 and the 1999-2000 fiscal years.
2. All billing statements from each attorney used by the district during the 1998-1999 and the 1999-2000 fiscal years.
3. Copies of any contracts between the attorneys and the district during the 1998-1999 fiscal and the 1999-2000 fiscal year.

You state that the district has released the information responsive to item numbers 1 and 3 to the requestor. However, you state that the attorney billing statements contain information

regarding cases which are pending or reasonably anticipated to result in litigation. Thus, you assert that this information is exempt from disclosure under sections 552.101¹ and 552.103. You also claim that the description of legal services contained in the requested invoices are protected from disclosure as attorney-client privileged information and attorney work product pursuant to sections 552.107 and 552.111, respectively. We have considered the exceptions you claim and reviewed the submitted information.

We note initially that, except for information that is protected by attorney-client privilege, information contained within an attorney billing statement is expressly made public by section 552.022(a)(16) of the Government Code. Therefore, none of the information contained in the attorney billing statements is excepted from disclosure under either section 552.103 and 552.111.

Section 552.107(1) excepts from disclosure information that an attorney cannot disclose because of a duty to his client. Under rule 503(b) of the Texas Rules of Evidence, “a client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client.” A “confidential communication” is a communication “not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication. Open Records Decision No. 574 (1990). This office has concluded that section 552.107 excepts from public disclosure only “privileged information,” that is, information that reflects either “confidential communications” from the client to the attorney or the attorney’s legal advice or opinions; it does not apply to all client information held by a governmental body’s attorney. *Id.* at 5. When communications from attorney to client do not reveal the client’s communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney’s legal opinion or advice. *Id.* at 3. Basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* at 3. In addition, documentation of calls made, meetings attended, or memos sent is generally not protected under this exception. *See* Open Records Decision Nos. 589 (1991) (even though content of a communication might be confidential, fact of a communication is ordinarily not excepted from disclosure).

A governmental body seeking to withhold requested attorney fee bills under section 552.107(1) must identify the portions that contain client confidences or attorney advice. *Id.* at 1. Unlike documentation such as memoranda, correspondence and briefs in which client confidences or attorney legal advice and opinions are easily identified, attorney fee bill information provides only inexplicit descriptions of services rendered. Rarely is it clearly

¹Although you assert that the information at issue is excepted from disclosure under section 552.101, you do not explain how this exception applies.

evident on the face of an attorney fee bill that a particular service rendered is actually a confidential communication. Thus, this office must rely on a governmental body's explanation as to how the particular information requested constitutes either a client confidence or a communication of legal advice or opinion. *Id.* at 1. Here, the district seeks to withhold from disclosure under section 552.107(1) significant portions of information in its itemized attorney billing statements. The bulk of the information, on its face, does not constitute "confidential communications." Instead, it appears to be basically factual communications from the attorney to the client itemizing the services rendered. The district did not identify the parties to the communications or provide any explanation as to how all of the information it seeks to withhold constitutes either a client confidence or a communication of legal advice or opinion. We have marked the limited amount of information which we believe may be withheld under section 552.107(1).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

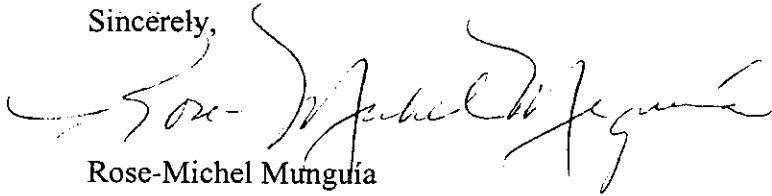
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in dark ink, appearing to read "Rose-Michel Munguia", is written over a large, stylized, light-colored mark that resembles a large "S" or a bracket.

Rose-Michel Munguia
Assistant Attorney General
Open Records Division

RMM/ch

Ref: ID# 133025

Encl. Submitted documents

cc: Mr. Steven L. Wilmeth
205 Hunter's Creek Drive
Longview, Texas 75601
(w/o enclosures)